RFA No.256 of 2001

30.7.2007 **Present**: Ms. Devyani Sharma, Advocate for the appellants.

Mr. Vinay Kuthiala, Advocate, for LRs of deceased respondent No.1 and for respondents No.2 & 3.

Mr. M.S. Chandel, Advocate General with Mr. M.L. Chauhan, Addl. A.G. for respondent No.4.

CMP(M) No. 508 of 2007

Allowed as not opposed. Smt. Keshva Devi, Smt. Sumitra Devi, Smt. Sheela Devi, Smt., Pushpa Devi, Smt. Yashoda Devi and Smt. Fula Devi, Legal representatives of deceased Tara Chand are brought on record.

CMP No.443 of 2007

Allowed as not opposed. The appellant No.1 M/s.Nathpa Jhakri Power Corporation, Shimla is substituted by Satluj JaL Vidut Nigam Ltd. The amended memo of parties has already been filed which is taken on record.

RFA No. 256 of 2001 with CMP No.444 of 2007

An application under Order 23 Rules 1,3, read with Section 151 C.P.C. has been filed jointly by the parties. The parties have filed “agreement of out of Court settlement” dated 26.4.2007 along with the application. The application is supported by affidavits of Bhim Sain one of the claimants as well as S.K. Biswas, Additional General Manager, Satluj Jal Vidyut Nigam Ltd. The application is also signed by learned counsel for the parties, who have submitted that the parties have settled their dispute in terms of “agreement of out of Court settlement” Annexure A-2 and they have prayed to dispose of the appeal in terms of Annexure A-2. as well as application under Order 23 Rules 1 ,3 read with Section 151 CPC

being CMP No.444 of 2007 including para-5 of the application which is reproduced herein below:-

> *"That the Settlement Ann. A-2 has been made on the basis of the undertaking given by the interest holders in the shape of affidavits that they and their successors/assignees/representatives shall not lodge any claim of enhancement of compensation in any Forum in future in respect of the land acquired for the NJHEP and that the Settlement Annexure A-2 is full and final as well as binding on all the parties except for claim of buildings and trees. The claimant submits that he has filed a cross appeal which is registered as RFA No.47 of 2002 and he does not want to press so far it pertains to the enhancement of market value of land".*

I have gone through the application under Order 23 Rules 1, 3 read with Section 151 C.P.C. which is supported by affidavits of Bhim Sain and S.K. Biswas. The appeal is dismissed as withdrawn in terms of "agreement of out of Court settlement" Annexure A-2 and CMP No.444 of 2007 under Order 23 Rules 1, 3 read with Section 151 C.P.C. including para-5 of the application.

CMP No.445 of 2007

For the reasons stated, the application is allowed. There shall be an order in terms of the prayer part of the application with liberty to the parties to approach the Court regarding calculations made in the application. However, it goes without saying that the respondents-assessees would be at liberty to defend themselves before the Income-tax authorities under the Income-tax Act, 1961. Such defence of course shall be on its merits and in accordance with law.

CMP No.446 of 2007

The parties have compromised the appeal which has been dismissed as withdrawn in terms of "agreement of out of Court settlement" Annexure A-2 along with in terms of CMP No.444 of 2007. The Court fee be refunded to appellant No.1 in accordance with law. The application is disposed of.

RFA No.47 of 2002 be listed for hearing in due course.

(Kuldip Singh)
Judge

July 30, 2007
(sks)